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December 13, 2011

FILE NO.
1372-01

VIA ECF

Honorable Ramon E. Reyes, Jr.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Jesus Acosta Artica, et al. v. J.B. Custom Masonry & Concrete, Inc., et al.*
Civil Action No. 09-cv-03796 (CBA)(RER); 11-cv-842

Dear Judge Reyes:

As you are aware, the parties appeared before Your Honor at the December 6, 2011 Fairness Hearing, wherein Your Honor approved the parties' collective action settlement agreement ("Settlement Agreement") as fair and reasonable, but reserved granting Final Approval of the Settlement Agreement upon resolution between the parties of several minor technical issues (the "Outstanding Settlement Issues"). Plaintiffs now write because to date, none of the Outstanding Settlement Issues that were addressed at the Fairness Hearing have been discussed by the parties, let alone resolved. Plaintiffs have repeatedly reached out to Defendants' counsel via phone and email in an attempt to work out the Outstanding Settlement Issues, yet Plaintiffs' attempts have been ignored. Terrence Worms, Esq., counsel for certain Defendants, has provided the only response to Plaintiffs' correspondence, however Mr. Worms could not provide the Defendants' position regarding the Outstanding Settlement Issues.

Plaintiffs also write to address the failure of Defendants to make their initial settlement payment into Defendants' counsel Thomas Gearon, Esq.'s escrow account by close of business today, December 13, 2011. In a conversation with Mr. Worms on December 12, 2011, Mr. Worms indicated that it was unlikely that Defendant Alfredo Battaglia would be making the initial payment by the December 13 deadline. Plaintiffs have attempted to confirm this information with Defendants' counsel today, but again have not received a response to our phone calls and emails.

Accordingly, and to prevent further delay by Defendants in meeting their obligations contained in the Settlement Agreement, Plaintiffs respectfully renew our request that the Court

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enforce the agreement as stated before Your Honor on November 7, 2011 and enter judgment against all Defendants jointly and severally for the full Settlement Agreement amount of \$940,000.00, plus interest at the rate of 10% and costs of collection, which are continuing.

Plaintiffs would be happy to participate in a conference call with Your Honor and Defendants' counsel and, if Your Honor so desires, to fully brief our request for entry of judgment.

We appreciate your attention to this matter. Should you have any questions regarding this request, please feel free to contact the undersigned.

Respectfully Submitted,

/s/ Brent E. Pelton

Brent E. Pelton, Esq. of
PELTON & ASSOCIATES PC

cc: Thomas Gearon, Esq. (*via ECF*)
Leo Clarke, Esq.
Terrence Worms, Esq